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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PARIKH WORLDWIDE MEDIA, LLC, Plaintiff, v. MEDIA LOGISTICS INC., LEGACY MEDIA, INC., GEORGE JOSEPH, SAMUEL EASO, Defendants.	ECF **COMPLAINT** **Civil Action No.**

Plaintiff Parikh Worldwide Media, LLC ("Plaintiff"), by way of Complaint against Defendants Media Logistics Inc., Legacy Media, Inc., George Joseph and Samuel Easo ("Defendants"), alleges as follows:

NATURE OF ACTION

1. Plaintiff and Defendant provide news and current events focusing on the Indian community. This action is brought by Plaintiff under the common and statutory law of the United States and the State of New Jersey and New York due to Defendants' unfair competition, unfair trade practices and unfairly, improperly and intentionally trading off of Plaintiff's trademark and goodwill – all resulting in Plaintiff being damaged (which damage continues).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1125.

3. Venue is appropriate in this District, the place where certain Defendants reside and where a substantial part of the events giving rise to the causes of action arose pursuant to 28 U.S.C. § 1391. Notably, both Plaintiff and Defendants sell and market their products which are at issue in this matter nationally and in the State of New Jersey.

THE PARTIES

4. Plaintiff is a Limited Liability Company organized and existing under the laws of the State of New York with an address at 115 West 30th Street, Suite 1206, New York, New York. Plaintiff is the owner of several paper and online publications (the "Desi Publications") and conducts business, including related to the facts set forth herein, in the State of New Jersey.

5. The Desi Publications provide news and current events which focus on the Indian community largely situated in the Northeast region of the United States. The Desi Publications include *Desi Talk in New York* and *DesiTalk in Chicago*.

6. The Desi Publications are available to customers in paper format and online at www.desitalk.com.

7. *Desi Talk in New York* has been published consistently since 1997, and *DesiTalk in Chicago* since 1994.

8. Plaintiff purchased Desi Talk, Inc., on March 5, 2009 for a substantial price. Thereafter, Plaintiff expended approximately $2.5 million more to develop the *Desi Talk in New York* and *Desi Talk in Chicago* and the Desi Talk name and brand.

9. *Desi Talk in New York* has a weekly circulation in print of between approximately 14,000 and 18,000, with a readership of approximately 42,000 to 54,000.

10. *Desi Talk in Chicago* has a weekly circulation in print of approximately 10,000, with a readership of approximately 30,000. The associated website at www.desitalk.com receives approximately 240,000 page views per month.

11. Plaintiff owns several registered Trademarks, including: Desi Talk (standard) Registration No. 3092409; Desi Talk (stylized) Registration No. 4066656; and Desi Talk in Chicago (stylized) Registration No. 4067191; and has an application for registration pending with the United States Patent & Trademark Office for Desi Talk TV Serial No. 87399152 (together, the "Desi Marks").

12. The Desi Marks include the following:

DESI TALK

DESI TALK IN CHICAGO

DESI TALK IN NEW YORK

13. Defendant Media Logistics, Inc. ("Media Logistics") is, upon information and belief, a New Jersey corporation with a principal place of business located at 257 Bradley Avenue, Bergenfield, New Jersey, 07621.

14. Defendant Legacy Media, Inc. ("Legacy Media") is, upon information and belief, a New York corporation with a principal place of business located at 13 Forbes Road, New City, New York 10956.

15. Defendant George Joseph ("Joseph") is an individual who, upon information and belief, resides at 13 Forbes Road, New City, New York 10956. Upon information and belief, Joseph is the majority or sole owner of Legacy Media and/or controls such entity, which operates out of his home. Joseph is also the registrant of the website www.dlatimes.com and www.desilifeandtimes.com (the "Infringing Desi Websites") and a written publication known as DESI LIFE and Times (the "Infringing Desi Publication").

16. The Internet domain name for the Infringing Desi Websites were both registered on January 2, 2015 by Joseph.

17. Defendant Samuel Easo a/k/a Sunil Tristar ("Easo") is an individual who, upon information and belief, resides at 257 Bradley Avenue, Bergenfield, New Jersey 07621. Easo is the Managing Editor of the Infringing Desi Websites and the Infringing Desi Publication.

18. Upon information and belief, Easo is the majority or sole owner of Media Logistics and/or controls such entity. Media Logistics operates out of Easo's home.

19. The Infringing Desi Websites and the Infringing Desi Publication are published, operated and owned by Defendants.

FACTS COMMON TO ALL COUNTS

20. The DesiTalk name, brand and Desi Marks are very popular throughout the Northeast United States, and is extremely well known in the area Indian community.

21. *DesiTalk in New York* is the most widely circulated Indian-American newspaper in the New York-New Jersey area.

22. *DesiTalk in Chicago* is the most widely circulated Indian-American newspaper in the Chicago area.

23. Plaintiff has continuously used the Desi Marks in commerce to market, promote and identify the Desi Publications.

24. From May 2009 to date, Plaintiff has invested several million dollars to develop and market the Desi Marks and the Desi Publications.

25. A material portion of the revenue generated from the Desi Publications is from advertisements.

26. The Infringing Desi Publication and the Infringing Desi Websites trade off of the Desi Marks, the Desi Publications, the Desi Publications' name and reputation, and all good will associated therewith, in producing, publishing, marketing and distributing the Infringing Desi Publication and the Infringing Desi Websites.

27. The Infringing Desi Publication and the Infringing Desi Websites target the same public audience and publish the same type of news and information as the Desi Publications.

28. At all relevant times, the Defendants were aware of the Desi Publications and the wide extent and popularity of the Desi Publications, including prior to the publication of the Infringing Desi Publication and the Infringing Desi Websites. Indeed, Defendants even contacted Plaintiff to extort Plaintiff into buying the Infringing Desi Publication (which would presumably have included the newer Infringing Desi Websites).

29. Without permission, but with explicit knowledge of the Desi Publication and the Desi Marks, Defendants thereafter have engaged in the marketing, promotion and distribution of the Infringing Desi Publication and the Infringing Desi Websites – all covering the same material and targeting the same specific audience; namely, the Indian and Indian/American communities.

30. Defendants, the Infringing Desi Publication and the Infringing Desi Websites constantly and consistently mimic and copy the Desi Publications and the Desi Marks in an effort to trade off of the goodwill associated therewith.

31. On or about April 12, 2017, Plaintiff received a letter from Ramesh Patel, Chairman of the Federation of Indian Associations ("FIA") (the "FIA Letter").

32. FIA promotes itself as "The largest Non-Profit Umbrella Organization in the tri-state of NY, NJ & CT."

33. FIA is a major advertiser in and with the Desi Publications.

34. Emblematic of the confusion caused by Defendants' improper actions, the FIA Letter reveals that FIA had been the recipient of "numerous emails for Subscription and advertising purposes from Desi Life and Times" and that FIA was confused as it was led to believe that "Desi Life and Times" was associated with the Desi Publications – when in reality, it is not.

35. Plaintiff has received numerous similar communications, letters and e-mail from its advertisers and others(including the Asian Indian Chamber of Commerce) expressing and indicating confusion between Plaintiff's Desi Publications using the Desi Marks on the one hand, and the Infringing Desi Publication and the Infringing Desi Websites on the other hand. Some of these communications even state that they were under the impression that the Infringing Desi Publication and the Infringing Desi Websites were publications of Plaintiff when they are not.

36. The numerous instances of actual consumer and public confusion between the earlier existing Desi Marks and Desi Publications on the one hand, and the Infringing Desi Publication and the Infringing Desi Websites on the other hand, is the direct and proximate result of Defendants' knowing and intentional unfair competition, unfair trade practices, and unfair and

improper trading off of the Desi Marks and goodwill associated therewith.

37. Defendants' continued operation of the Infringing Publication and Infringing Websites using and trading off of the Desi Marks and Desi Publications has damaged Plaintiff's interest therein, and will continue to do so, by, among other things:

A. Continuing to cause consumer confusion as to the source of the publications and business at issue;

B. Continuing to cause advertiser confusion as to the source of the publications and business at issue;

C. Continuing to damage the valuable and significant goodwill that Plaintiff has established in the Desi Marks and the Desi Publications, and business related thereto;

D. Continuing to unfairly compete with Plaintiff's business by engaging in all of the foregoing activities as set forth herein; and

E. Threatening to further trade upon the Desi Marks and Desi Publications and Plaintiff's goodwill associated therewith, thereby causing further damage to the valuable and significant goodwill Plaintiff has in the Desi Marks and Desi Publications.

38. The wrongful activities of Defendants are causing and will continue to cause severe and irreparable injury to Plaintiff, including but not limited to, Plaintiff's rights in and to the Desi Marks and Desi Publications.

39. The wrongful activities of Defendants are causing and will continue to cause actual and likely confusion amongst the consuming public and advertisers.

40. Defendants' actions and activities as set forth herein have been willful and deliberate, designed specifically to improperly trade upon the goodwill associated with the Desi Marks, the Desi Publications and business related thereto.

41. Defendants' actions and activities as set forth herein will continue unless enjoined by this Court.

COUNT ONE

Federal Unfair Competition and False Description/Designation of Origin – 15 U.S.C. §1125(a)

42. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

43. This cause of action arises under 15 U.S.C. § 1125(a) for unfair competition and false designation of the origin of services and false description and representation.

44. By reason of the foregoing acts of Defendants stated in the preceding paragraphs (including, but not limited to, through the Infringing Desi Publication and the Infringing Desi Websites), Defendants have falsely designated the origin of their services and goods in their marketing and have otherwise made false descriptions and representations of the origin of such services and goods.

45. Defendants' unauthorized activities are likely to create (and have created) confusion among the consuming public, are likely to deceive purchasers of Plaintiff's publications, as well as its advertisers, concerning the source or sponsorship of such goods and services, and will otherwise mislead the consuming public as to the origin of the goods and services sold by or on behalf of Defendants.

46. Defendants' intentional, willful and bad faith intent to trade on Plaintiff's good will and create the false and misleading impression that Defendants are affiliated, connected or associated with Plaintiff – through trademark and otherwise – is in violation of 15 U.S.C. § 1125(a).

47. By reason of the foregoing, Plaintiff has suffered and will continue to suffer substantial and irreparable damage, including damage to its valuable trademark rights.

SECOND COUNT

Common Law Unfair Competition

48. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

49. This cause of action arises under the common law of unfair competition over which this Court has jurisdiction by virtue of 28 U.S.C. § 1338 and § 1367 and by the principles of supplemental jurisdiction.

50. Plaintiff has common law rights in the Desi Marks which is uniquely associated with Plaintiff as to the source of the goods offered in connection with the Desi Marks.

51. Defendants have made false and misleading representations, including those set forth above, to Plaintiff's current and prospective customers. Defendants' conduct as aforesaid (including, but not limited to, through the Infringing Desi Publication and the Infringing Desi Websites) constitutes unfair methods of competition and unfair and deceptive acts and practices in the conduct of its trade in violation of the New Jersey common law of unfair competition as well as those of other applicable states.

52. By reason of the foregoing, Plaintiff has been caused to suffer and will continue to suffer substantial damages, including damage to its valuable trademark rights.

THIRD COUNT

Statutory Unfair Competition in Violation of the New Jersey Fair Trade Act – N.J.S.A. §56:4-1, et seq.

53. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

54. Defendants' conduct as aforesaid (including, but not limited to, through the Infringing Desi Publication and the Infringing Desi Websites) constitutes unfair methods of competition and unfair and deceptive acts and practices in the conduct of its trade in violation of New Jersey statutory and common law.

55. As stated in the preceding paragraphs, Defendants have, in violation of New Jersey statutes (including N.J.S.A. §56:4-1, et seq.), misappropriated the Desi Marks and Plaintiff's brand, reputation and goodwill for their own use in the Infringing Desi Publication and the Infringing Desi Websites to Plaintiff's detriment.

56. By reason of the foregoing, Plaintiff has been caused to suffer and will continue to suffer substantial damages, including damage to its valuable trademark rights.

FOURTH COUNT

Statutory Unfair Competition in Violation of the New Jersey Trade Names, Trade-Marks and Unfair Trade Practices Act - N.J.S.A. §56:3-13.16(a)(1)-(2)

57. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

58. Defendants' conduct as aforesaid set forth constitutes unfair methods of competition and unfair and deceptive acts and practices in the conduct of their trade in violation of statute and common law.

59. Specifically, the Defendants (including, but not limited to, through the Infringing Desi Publication and the Infringing Desi Websites) have, in violation of New Jersey statutes (including N.J.S.A. §56:3-13.16(a)(1)-(2)), engaged in reproduction, counterfeit, copy, or colorable imitation of Plaintiff's Desi Marks in connection with the sale of goods which is likely to cause confusion or mistake or to deceive as to the source of origin of the goods or services.

60. Defendants' actions have caused consumer confusion in the marketplace.

61. By reason of the foregoing, Plaintiff has been caused to suffer and will continue to suffer substantial damages, including damage to its valuable trademark rights.

FIFTH COUNT

False Designation of Origin Under State Law

62. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

63. By virtue of the extensive use, advertising, and promotion of the Desi Marks and the goodwill associated with that name, the Desi Marks have come to serve as a designation of origin of Plaintiff and its activities, and is a symbol of the goodwill which has been established for these activities.

64. Defendants' false and intentional use of the Desi Marks and goodwill associated therewith constitutes false designation of origin and is likely to (and actually has) mislead and deceive the trade and public into believing that the activities of Defendants originate from, are affiliated with, or sponsored, authorized, approved, or sanctioned by Plaintiff.

65. Defendants' wrongful acts are in violation of New Jersey law.

66. Defendants' wrongful acts were committed willfully and intentionally.

67. By reason of the foregoing, Plaintiff has been caused to suffer and will continue to suffer substantial damages, including damage to its valuable trademark rights.

SIXTH COUNT

Declaratory Judgment

68. Plaintiff repeats and realleges each and every allegation contained in the prior paragraphs of this Complaint as if fully set forth at length herein.

69. By reason of the foregoing acts of Defendants stated in the preceding paragraphs (including, but not limited to, through the Infringing Desi Publication and the Infringing Desi Websites), Defendants have falsely designated the origin of their services and goods in their marketing and have otherwise made false descriptions and representations of the origin of such services and goods.

70. Defendants' unauthorized activities have created confusion among the consuming public, are likely to deceive, and actually has deceived, purchasers of Plaintiff's products, as well as its advertisers, concerning the source or sponsorship of such goods and services, and will otherwise mislead the consuming public as to the origin of the goods and services sold by or on behalf of Defendants.

71. Defendants' intentional, willful and bad faith intent to trade on Plaintiff's good will and create the false and misleading impression that Defendants are affiliated, connected or associated with Plaintiff – through trademark and otherwise.

72. Plaintiff therefore seeks and is entitled to a Declaratory Judgment declaring that Defendants' Desi Infringing Publication and Infringing Desi Websites are violative of Plaintiff's rights and must immediately cease.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. A preliminary and permanent injunction against Defendants and their officers, agents, servants, employees, licensees, agents, subsidiaries, affiliates and/or assigns and those persons in active concert or participation with them who received actual notice by personal service or otherwise:

1. Registering, owning, leasing, selling, trafficking or using the name or word "Desi" or which uses or incorporates in whole or in part any of the Desi Marks, however spelled, whether capitalized, abbreviated, singular or plural, printed or stylized, whether used alone or in conjunction with any word or words, and whether used in caption, text, orally, or otherwise) or any derivative thereof, or any mark which is confusingly similar to the Desi Marks in connection with any business, product (including the Infringing Desi Publication and Infringing Desi Websites), marketing campaign or Internet domain name in connection with any publication or related material or subject matter which targets or markets to the Indian or Indian/American community located in the United States;

2. Infringing the Desi Marks or otherwise unfairly competing with Plaintiff;

3. Using, reproducing, advertising or promoting any slogan, mark, or name that may be calculated to represent that the products or services of Defendants or any other person are sponsored by, authorized by, or in some way associated with Plaintiff, the Desi Publications or the Desi Marks;

4. Using or reproducing any word, term, name, or symbol, or any combination thereof, on any product or in connection with any service that

confuses or falsely represents or misleads, is calculated to confuse, falsely represent, or mislead, or that has the effect of confusing, falsely representing, or misleading, that the products, services, or activities of Defendants or another are in some way connected with Plaintiff, the Desi Publications or the Desi Marks, or is sponsored, approved, or licensed by Plaintiff;

5. Inducing, encouraging, aiding, abetting, or contributing to any of the aforesaid acts.

B. Ordering that Defendants shut down and cease operation of, and sales through and of, the Infringing Desi Publication and the Infringing Desi Websites, and any related publications or Internet websites or domains owned and/or operated by Defendants which violate any of the above prohibitions.

C. Ordering that Defendants immediately transfer to Plaintiff the domain names used by the Infringing Desi Websites.

D. Ordering that Defendants pull, cancel and/or retract all marketing, advertising or promotional materials (both paper and digital) and all documents whatsoever and of whatever nature or form relative to the Infringing Desi Publication and/or the Infringing Desi Websites.

E. Ordering that Defendants provide Plaintiff with copies of all orders and pending orders of the Infringing Desi Publication and the Infringing Desi Websites or advertisements or promotions therein or to be provided there.

F. Ordering the recall of all issues of the Infringing Desi Publication which have not yet been sold to any third-party consumer.

G. Ordering that Defendants file with this Court and serve on counsel for Plaintiff within 10 days after service on Defendants of such Order, or within such period as this Court may direct, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with Defendants' obligations hereunder.

H. For an accounting by Defendants of their sales and profits from the period commencing on the first date it used or sold, or obtained any revenue from or in connection with, the Infringing Desi Publication and separately, from or in connection with, the Infringing Desi Websites through the present.

I. For an award of Defendants' profits.

J. For an award of compensatory, consequential, punitive, punitive, statutory and all other damages permitted by law.

K. For a declaration that Defendants' Desi Infringing Publication and Infringing Desi Websites are violative of Plaintiff's rights and must immediately cease.

L. For an award of the reasonable attorneys' fees and cost of suit incurred by Plaintiff.

M. For such other further relief as this Court may deem equitable and proper.

BY: /S/
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Attorneys for Plaintiff
Parikh Worldwide Media, LLC

Dated: April 28, 2017

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Pursuant to L. Civ. R. 11.2, I hereby certify that there is no other action pending in any Court or arbitration proceeding concerning the matter in controversy, none is contemplated, and further, I know of no other party who should be joined in this matter.

OLENDERFELDMAN LLP
Attorneys for Plaintiff

By: /S/
MICHAEL J. FELDMAN (MF 7889)

Dated: April 28, 2017